THE HONOURABLE SRI JUSTICE K.C.BHANU

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WRIT PETITION No.1205 of 2001

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Dated: 03-08-2005

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Between:

Md. Abdul Salam, S/o. Mohd. Ali,

Aged about 42 years, E.P. Operator,

R/o. S.D.Quarter no.479,

J.K.Colony, Yellandu,

Khammam District. …Petitioners

AND

General Manager (Projects),

The Singareni Collieries Co.Ltd.,

Yellandu Area, Yellandu,

Khammam District. …Respondent

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.1205 of 2001

ORDER:

This writ petition has been filed seeking a direction, in the nature of Writ of

Mandamus, declaring the proceedings No.YCP/43/3005 dated 28-12-2000 issued by the respondent as arbitrary, illegal and to set aside the same and to issue a consequential direction to the respondent not to give effect to the same and refund the penal rent deducted from his salary.

2. The case of the petitioner is that he has been working as E.P. Operator in Singareni Collieries Company Ltd., and was allotted a quarter bearing No.SD-479, on 22-10-1995, and since then, he has been in occupation of the same along with his wife and children. While so, on 26-3-1997 proceedings were issued to the petitioner cancelling the allotment of quarter in his favour and to hand over the vacant possession to one Sri M. Ch. Keshava Rao, E.P. Operator. Assailing which, the petitioner preferred Writ Petition No. 7146 of 1997 and the same was disposed of with a direction to the respondent-company to consider the petitioner's explanation and pass appropriate orders. Thereafter, respondent-company issued show cause notice, for which the petitioner gave his explanation. But without considering the same, the respondent-company issued proceedings dated 04-10-1997 cancelling the allotment and imposing penal rent. Aggrieved by the same, petitioner preferred W.P.3592 of 1997 wherein interim order was passed directing the respondents not to deduct penal rent. Thereafter, the Company entered into settlement under Section 12 (3) of the Industrial Disputes Act on 31-07-1997 agreeing to regularize allotment of the quarters to unauthorized occupants subject to certain conditions. Later, the writ petition filed by the petitioner was disposed of remanding the same for fresh enquiry by a committee of three officers of the company. The grievance of the petitioner is that the said Committee did not permit the petitioner to produce any evidence to disprove the allegation of subletting levelled against him, and the second respondent passed the impugned order *vide* Ref.No.YCP/43/3005 dated 28-12-2000, directing him to vacate and handover the vacant possession of the quarter to the Company within ten days, failing which, penal rent of Rs.1500-00 per month would be recovered from him with immediate effect. Hence, the present writ petition.

3. Combating the allegations levelled in the writ petition, the respondent-company filed a detailed counter-affidavit, wherein catena of judgments passed in similar writ petitions has been cited, wherein imposition and collection of penal rent was held to be in accordance with the rules. Consequently, it was prayed that the writ petition is liable for dismissal.

4. The learned Counsel appearing for the petitioner contended that the impugned proceedings are stereo typed, and the respondent did not record any reasons at all. Elucidating his contention, the learned Counsel placed reliance on the orders passed by this Court in W.P.No.1478 of 2001, wherein it was categorically held that the respondents-company were required to pass a reasoned order sensitizing the petitioner as to the reasons why he was ineligible for regularization in terms of the settlement. Ultimately, it is contended that as per the settlement dated 31.07.1997, the petitioner is not liable for eviction and he is not liable for payment of any penal rent as such.

5. On the other hand, the learned Counsel for the respondent- company contended that the petitioner has sublet the premises in question, and as such after due enquiry, allotment of the said quarter in his favour was cancelled in the year 1997 and thereafter, he illegally occupied the quarter. He further contends that the case of the petitioner does not fall within the terms of settlement dated 31-07-1997 as he approached the Court and obtained interim suspension in W.P.M.P.No.1459 of 2001, by suppressing the cancellation of allotment. He further contends that the respondent-company has rightly levied the penal rent.

6. Originally, the petitioner was allotted a quarter bearing No.SD-479 in J.K.Colony, Yellandu, *vide* allotment order dated 22.10.1995. On the ground that the petitioner sublet the premises to one Sri M. Ch. Keshava Rao, a regular enquiry was conducted by the respondent-Company in his presence, and the allotment of quarter was cancelled. It is not in dispute before this Court that sublease of company's quarter is a breach of terms and conditions of the allotment order. If the petitioner is in unauthorised occupation for not less than three years by 31-10-1997, he is entitled for allotment of quarter. The specific case of the respondent-Company is that since the petitioner violated the terms and conditions of original allotment, a regular departmental enquiry was conducted against him, and the cancellation order dated 04.10.1997 was issued to the petitioner only after furnishing the copy of enquiry report and after considering his representation dated 13-09-1997. As the petitioner failed to vacate the quarter in spite of a direction issued by the respondent company, the penal rent has been imposed. The petitioner is aware of the enquiry with regard to the charge of subletting. In the enquiry, he failed to produce any document. After accepting the enquiry report, a final show cause notice was also given to the writ petitioner calling for his explanation. Suppressing the same, the petitioner obtained

interim orders. The person, who is having such conduct, does not deserve to continue in the quarters and he is not entitled for any equitable remedy.

7. As per the settlement dated 31-07-1997, one of the requirements reads as follows:-

> "In consideration of the unanimous request by the Unions, as a gesture of good will on the eve of 50th Independence Day Celebrations, it is agreed to regularize the allotment of quarters to the unauthorized occupants, provided, they put in 12 years and above service in the Company and have been in occupation of the said quarter for not less than three years by 31-10-1997. This relaxation is agreed to as a very special case, as one time measure and shall not be quoted as a precedent".

The above settlement came into operation with effect from 2.2.2003. In view of the same, this Court is unable to accept contention of the petitioner that as per the above said settlement he is not liable for both eviction and the payment of any penal rent. The circular has no application as it is made clear that it is not applicable to the case of quarters illegally occupied by the Government employees from whom, the penal rent is being collected. Therefore, the said circular has no application.

8. The learned Counsel for the petitioner placed strong reliance on a decision of this Court reported in '***E. Kistaiah V. The Singareni Collieries Company Limited, Kothagudam, Khammam'***, wherein it is held:

> "It is a settled principle of law, that an administrative order should be a self-contained one and would have to speak by itself and reasons not recorded therein could not be supplemented subsequently."

It is further observed that

> "In the context of earlier events culminating in the judgment supra, the respondents were required to pass a reasoned order sensitizing the petitioner as to the reasons why he was ineligible for regularization in terms of the settlement."

9. There is no dispute about the law laid down by the learned Single Judge, in view of the fact that even the administrative authorities are required to record reasons for

the decision. In this case, the reason assigned by the respondent-Company is that basing on the report of the committee constituted by this Court, the impugned proceedings were issued. As seen from the report, it is clear that on physical verification, the petitioner was not in the quarter, and it revealed that the quarter was sublet to one M. Ch. Keshava Rao. Hence, the committee recommended that the writ petitioner is liable to pay the penal rent.

10. Therefore, in my considered opinion, the impugned proceedings are solely based upon the committee's report and the same does not suffer from any legal infirmities particularly in view of the fact that the petitioner suppressed the material facts and obtained interim orders. It is also not in dispute that if a person is in illegal occupation of the quarters, he is liable to pay penal rent and respondent-Company rightly imposed the same.

11. For the foregoing reasons, the writ petition is devoid of merits, and the same is, accordingly, dismissed. In the circumstances, no costs.

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K.C. BHANU, J.

DATED: 03rd August, 2005

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